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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/604,566	07/30/2003	Bruce Preston Williams	FGT 1697 PA	1565
28549	7590	10/18/2004	EXAMINER	
KEVIN G. MIERZWA			HOESLY, RYAN C	
ARTZ & ARTZ, P.C.			ART UNIT	PAPER NUMBER
28333 TELEGRAPH ROAD, SUITE 250			3727	
SOUTHFIELD, MI 48034				

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/604,566	<b>Applicant(s)</b> WILLIAMS ET AL.	
	<b>Examiner</b> Ryan C. Hoesly	<b>Art Unit</b> 3727	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/24/03</u> | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "64" has been used to designate both the cross members and the supplemental cross members in the specification even though the drawing has those listed specifically as cross member (64) and supplemental cross member (66). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to because the detailed description of the drawings paragraph [0042] contains a reference to a second pair of supports (30"), but in the drawing there is no 30" character only a 30'. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must

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be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: bolt member (54). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 18-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 18-20 disclose a method of manufacturing, however, there are no manufacturing elements in the claims. The claims are a method of using the manufactured product, and they have been treated as such for the purposes of this examination.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boudah (US Patent Number 5143415) in view of Kmita (US Patent Number 6729513). Boudah teaches a disassemblable, lightweight truck utility rack that includes a first set of substantially parallel supports (17) secured to the vehicle and a second pair of supports (18) that are telescopically coupled to the first set of supports. Both sets of supports being longitudinally along the length of the vehicle. The truck bed section further includes a set of pillar members (11) extending substantially downwardly from the second set of supports and are slidably coupled (6) to a sidewall of the truck bed (1)

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wherein the telescoping rack is movable between an extended position and a retracted position.

8. Kmita teaches a vehicle article carrier having telescopically extendable article carrier portion, which includes a roof rack that is fixed to the roof of the vehicle (26) and has a set of two substantially parallel supports (18) that are arranged longitudinally along the length of the vehicle and are telescopically coupled with a second set of supports (30). When the telescoping members are in the retracted position the second set of supports are flush with the first set of support members at the edge of the roof rack.

9. Truck bed racks are typically not fixedly attached to the vehicle as it requires permanent vehicle modification, therefore many, like the Boudah device, do not have a fixedly attached roof rack. With regards to claim 1, if the area above the cab of the truck was wished to be utilized, it would have been obvious to one skilled in the art at the time of invention to modify the Boudah device to include a fixedly attached roof rack as the attachment means for the first set of supports as in the technology of Kmita so that the second set of supports of the Boudah device extend from where the second set of supports of the Kmita device.

10. With regards to claim 2, the telescoping roof rack of Kmita has a plurality of leg portions (26 and 28) extending from each of the first pair of supports for attaching the roof rack section to the roof.

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11. With regards to claim 3, the first support members in both the Kmita device and the Boudah device are sized for telescopically receiving one of said second pair of supports.

12. With regards to claim 4, the Kmita device has at least one cross member (22) extending between the first pair of supports.

13. With regards to claim 5, the Boudah device has at least one cross member (17) extending between the second set of supports.

14. With regards to claim 6, the Boudah device has an intermediate pair of supports that are telescopically fitted between the first and second sets of supports.

15. With regards to claim 7, the first set and the intermediate sets of supports in the Boudah device are sized to telescopically receive the intermediate and second sets of supports, respectively.

16. With regards to claim 9, the pillars of the Boudah device have a bottom portion including a tongue protrusion for engaging a slotted rail formed within the sidewall.

17. Claims 8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boudah and Kmita as applied to claims 1-7 and 9 above, and further in view of Aftanas et al (US Patent Number 6056176). Aftanas teaches a vehicle article carrier having a clamping crossbar, which includes a supplemental cross member (20) that can be attached between any set of support members on the disclosed roof rack (10). It would have been obvious to one skilled in the art at the time of invention to place the Aftanas cross member between any set of supports where structural strengthening or extra attaching means were needed.

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18. Claims 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boudah and Kmita as applied to claims 1-7 and 9 above, and further in view of Ingram (US Patent Number 5423587). Ingram teaches a camper shell for pickup truck with lumbar rack, which includes a cover (11) for enclosing a space within the truck bed by attaching to the sidewalls and the truck bed rack. It would have been obvious to one skilled in the art to add a cover to a truck bed rack to create an enclosed space as in the technology of Ingram.

19. With regards to claim 11, the telescoping roof rack of Kmita has a plurality of leg portions (26 and 28) extending from each of the first pair of supports for attaching the roof rack section to the roof.

20. With regards to claim 12, the first support members in both the Kmita device and the Boudah device are sized for telescopically receiving one of said second pair of supports.

21. With regards to claim 13, the Kmita device has at least one cross member (22) extending between the first pair of supports.

22. With regards to claim 14, the Boudah device has at least one cross member (17) extending between the second set of supports.

23. With regards to claim 15, the Boudah device has an intermediate pair of supports that are telescopically fitted between the first and second sets of supports.

24. With regards to claim 16, the first set and the intermediate sets of supports in the Boudah device are sized to telescopically receive the intermediate and second sets of supports, respectively.

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**Conclusion**

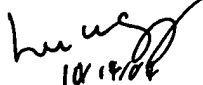
25. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art made of record can be found in the Notice of References Cited (PTO Form-892).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan C. Hoesly whose telephone number is (703) 305-0576. The examiner can normally be reached on Monday-Thursday 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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10/14/06  
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